

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D. C. 20591

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In the matter of the petition of
CONFEDERATE AIR FORCE, INC.
for an exemption from Sections
91.315, 91.319, 119.5(g), and
119.21(a) of Title 14, Code of
Federal Regulations
* * * * *

Regulatory Docket
No. 29177

GRANT OF EXEMPTION

By undated letter, Mr. Robert R. Rice, Executive Director, the Confederate Air Force, Inc. (CAF), Midland International Airport, P.O. Box 62000, Midland, Texas 79711-2000, petitioned for an exemption from Sections 91.315, 91.319, 119.5(g), and 119.21(a) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit the CAF to operate certain limited and experimental certificated CAF aircraft for the purpose of carrying its members on local educational flights for compensation or hire. Although the CAF requested relief from Section 91.319, the Federal Aviation Administration (FAA) has determined that the CAF requires relief from Section 91.319(a) only.

The petitioner requires relief from the following regulations:

Section 91.315 prescribes that no person may operate a limited category civil aircraft carrying persons or property for compensation or hire.

Section 91.319(a) prescribes, in pertinent part, that no person may operate an experimental category civil aircraft for other than the purpose for which the certificate was issued or carrying persons or property for compensation or hire.

Section 119.5(g) prescribes, in pertinent part, that no person may operate as a commercial operator without, or in violation of, an appropriate certificate and appropriate specifications.

Section 119.21(a) prescribes, in pertinent part, that each person who conducts operations as a commercial operator

engaged in intrastate common carriage of persons for compensation shall comply with the certification and operation specifications in subpart C of part 119. Subpart C of part 119 describes certification, operation specifications, and other requirements for operations conducted under 14 CFR parts 121 and 135.

The petitioner supports its request with the following information:

The petitioner states that the CAF is a nonstock corporation based in Midland, Texas, and qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. The CAF is dedicated to preserving the "world's great combat aircraft." Although many of the CAF's activities are organized and conducted by CAF Headquarters in Midland, Texas, activities also take place throughout the nation through the CAF's local units. According to the petitioner, each CAF unit is included within the scope of the tax-exempt status and conducts its own educational program for CAF members and the general public.

According to the petitioner, use of its historic aircraft is a key element to its ongoing financial stability and enhances the educational purpose of its Internal Revenue Service (IRS) status. If granted, this exemption would allow the CAF and its units to effectively use its historic aircraft by providing its members with hands-on experience in a wide variety of historic military aircraft. The CAF presently has 7,553 members throughout the United States. The CAF's affiliate museum, located in Midland, Texas, draws annually approximately 42,000 people. Each year, the CAF sponsors an air show at Midland International Airport. Approximately 31,200 people attended the air show last year.

The petitioner states that through its static display and air shows, members receive a unique educational experience specific to historic military aircraft.

The petitioner states that in addition to its North American-produced military aircraft, it uses an He 111 German bomber and Ju 52 German transport. The petitioner states that these aircraft are flown to recreate major air battles. Although no combat maneuvers are performed, the aircraft are displayed in fly-by activities. The petitioner contends that these aircraft draw great attention from both CAF members and the general public; therefore, it is in the public interest to grant this exemption to permit CAF to operate its He 111 and Ju 52 aircraft as well as its other North American-produced military aircraft.

The petitioner also states that CAF historic military aircraft flights will have no effect on air carriers that operate aircraft in the standard airworthiness category.

CAF members aboard the CAF's historic military aircraft will not receive air transport services.

The flights offered by the CAF will provide only educational flight experiences in historic military aircraft. The petitioner also states that all operations will depart from and return to the same airport.

The petitioner states that it has organized an aircraft maintenance policies and procedures manual titled CAFR 66-1. This publication outlines CAF regulations specific to the preparation, management, and use of forms and records used to control, manage, and maintain CAF aircraft. The publication also outlines specific CAF maintenance regulations and uses the Federal Aviation Regulations (FAR) as the controlling authority for maintenance of CAF aircraft. The petitioner claims its maintenance and inspection program meets or exceeds all relevant FAR. Furthermore, the petitioner states that all aircraft are maintained in accordance with part 91 and the inspection requirements of Section 91.409.

According to the petitioner, most of the aircraft included in the petition are under an FAA Approved Airworthiness Inspection Program (AAIP); those that are not covered by the AAIP are inspected in accordance with the manufacturer's recommendations and appendix D to 14 CFR part 43.

The petitioner states that all airmen involved in flight operations under this exemption will possess at least a commercial pilot certificate and a second class airman medical certificate. CAFR 60-1, another CAF manual, establishes standard requirements for flying CAF aircraft including, pre-flight, en route, and post-flight operations. A specific section of the manual regarding safety establishes CAF safety objectives and procedures to ensure safety including penalties for a violation of CAF safety procedures. Additionally, the petitioner states that another CAF manual, CAFR 60-2, outlines a program of pilot qualifications and check-out procedures, as well as the requirements for a flight evaluation board, which selects CAF airmen.

Finally, the petitioner states that its intention is to provide flight experiences to CAF members on local flights. The CAF contends it has demonstrated unequivocally that the requisite equivalent level of safety will be provided to those who participate in a flight experience in CAF aircraft. Specifically, maintenance and air operations manuals, as well as the implementation of the guidance provided in those manuals, will ensure safety is not compromised.

The FAA has determined that good cause exists for waiving

the requirement for Federal Register publication because the exemption, if granted, would not set a precedent, and any delay in acting on this petition would be detrimental to the CAF.

The FAA's analysis/summary is as follows:

The FAA has determined that the issuance of this exemption is justified because there have been several similar exemptions previously issued to similar operators. The conditions and limitations contained in those previously issued grants of exemption are identical to those in this grant of exemption.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. Sections 40113 and 44701, delegated to me by the Administrator (14 CFR Section 11.53), the Confederate Air Force, Inc., is granted an exemption from 14 CFR Sections 91.315, 91.319(a), 119.5(g), and 119.21(a) to the extent necessary to allow CAF to operate its fleet of former military airplanes (A-26, B-17, B-24, B-25, B-29, C-46, He 111, Ju 52, P-51, PBV-6A, SB2C, SDB, and TBM) that hold either a limited airworthiness certificate or an experimental airworthiness certificate for the carriage of passengers on local educational flights for compensation and hire. This grant of exemption is subject to the following conditions and limitations:

1. The CAF must maintain its fleet of former military airplanes being used in this grant of exemption, in accordance with the -
 - a. Maintenance requirements as specified in the specific make and model type specification sheet, as amended;
 - b. FAA-approved maintenance inspection program that meets the requirements of Section 91.409; and
 - c. Specific make and model technical manuals.
2. The pilot in command (PIC) must -
 - a. Hold at least a commercial pilot certificate with a category and class rating representative of that military vintage airplane, an airplane instrument rating, and a type rating in that specific make and model of airplane, if appropriate;
 - b. Have completed the CAF's specific make and model of airplane qualification and recurrent flight and ground training program within the previous 12 calendar months;
 - c. Have at least a total of 2,500 hours of

aeronautical flight experience, 1,000 hours of aeronautical flight experience in the category and class of military vintage airplane, and 25 hours in the specific make and model of airplane or have at least a total of 1,000 hours of aeronautical flight experience, 200 hours of aeronautical flight experience in the category and class of military vintage airplane, and 100 hours and 50 takeoffs and 50 landings in the specific make and model of airplane; and

- d. Have accomplished three takeoffs and three landings to a full stop in the specific make and model of airplane, within the previous 90 days before to serving as PIC.

3. The second in command (SIC) must -

- a. Hold at least a commercial pilot certificate with a category and class rating representative of that military vintage airplane and hold an airplane instrument rating;
- b. Have completed the CAF's specific make and model qualification and recurrent flight and ground training program within the previous 12 calendar months;
- c. Have at least a total of 1,500 hours of aeronautical flight experience, 250 hours of aeronautical flight experience in the category and class of military vintage airplane or have at least a total of 500 hours of aeronautical flight experience, 100 hours of aeronautical flight experience in the category and class of military vintage airplane, and 25 hours and 10 takeoffs and 10 landings in the specific make and model of airplane; and
- d. Have accomplished three takeoffs and three landings to a full stop in the specific make and model of airplane, within the previous 90 days before serving as SIC.

4. The CAF must develop and maintain a written qualification and recurrent ground training program for its PICs and SICs for each specific make and model of airplane, and the training programs must cover the training subjects listed below. Each PIC and SIC must receive this training and be found competent and proficient on the following:

- a. General information and description of the aircraft;

- b. Aircraft limitations;
- c. Aircraft servicing;
- d. Airspeeds;
- e. Fuel system;
- f. Electrical system;
- g. Hydraulic system;
- h. Engine(s);
- i. Instruments and avionics;
- j. Landing gear, brakes, controls, and flaps systems;
- k. Propeller;
- l. Emergency procedures, including -
 - (i) Instruction in emergency assignments and procedures, including coordination among crewmembers;
 - (ii) Individual instruction in the location, function, and operation of emergency equipment, including -
 - A. First aid equipment and its proper use; and
 - B. Portable fire extinguishers, specifically the type of extinguisher to be used on different classes of fires;
 - (iii) Instruction in the handling of emergency situations, including -
 - A. Fire in flight or on the ground and smoke control procedures with emphasis on electrical equipment and related circuit breakers found in cabin areas; and
 - B. Illness, injury, or other abnormal situations involving passengers or crewmembers;
- m. Weight and balance;
- n. Performance planning; and

o. Airplane checklists.

5. The CAF must develop and maintain a written qualification and recurrent flight training program for its PICs for each specific make and model of airplane and the training programs must cover the areas of operations and tasks listed in Airline Transport Rating and/or Type Rating Practical Test Standards, FAA-S-8081-5B, and each PIC must receive this training and be found competent and proficient on those areas of operation and tasks before being assigned PIC responsibilities and duties in that specific make and model of airplane.

6. The CAF must develop and maintain a written qualification and recurrent flight training program for its SICs for each specific make and model of airplane and the training programs must cover the maneuvers and procedures listed below. Each SIC must receive this training and be found competent and proficient on the following maneuvers and procedures before being assigned SIC responsibilities and duties in that specific make and model of airplane:

- a. Operational procedures applicable to the powerplant, equipment, and systems;
- b. Performance specifications and limitations;
- c. Normal, abnormal, and emergency operating procedures;
- d. Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls;
- e. Engine-out procedures and maneuvering with an engine out while executing the duties of PIC; and
- f. Crew resource management training.

In addition, each SIC must be familiar with the aircraft flight manual, placards, and markings.

7. Each PIC must complete a proficiency practical test upon completion of the initial qualification training program and upon completion of the recurrent training program (every 12 calendar months after completion of the initial qualification training program) that covers the areas of operations and tasks listed in Airline Transport Rating and/or Type Rating Practical Test Standards, FAA-S-8081-5B. Each PIC must be found competent and proficient on those areas of operation and tasks before being assigned to PIC duties and

responsibilities in that specific make and model of airplane.

8. Each SIC must complete a proficiency practical test upon completion of the initial qualification training program and upon completion of the recurrent training program (every 12 calendar months after completion of the initial qualification training program) that covers the following maneuvers and procedures before being assigned to SIC duties and responsibilities in that specific make and model of airplane:
 - a. Operational procedures applicable to the powerplant, equipment, and systems;
 - b. Performance specifications and limitations;
 - c. Normal, abnormal, and emergency operating procedures;
 - d. Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls;
 - e. Engine-out procedures and maneuvering with an engine out while executing the duties of PIC; and
 - f. Crew resource management training.

In addition, each SIC must be familiar with the aircraft flight manual, placards, and markings.

9. The CAF's qualification and recurrent ground and flight training programs listed in Condition Nos. 4, 5, and 6, as appropriate, must be made available to the San Antonio Flight Standards District Office (FSDO), SW17, upon request.
10. The CAF must have the services of an FAA-certificated airframe and powerplant mechanic or an appropriately rated repair station available at all stopovers to perform all required maintenance inspections and repairs.
11. The CAF will maintain the following information and records and will make those records available for the FAA to review when requested:
 - a. The name of each pilot crewmember the CAF authorizes to conduct flight operations in its airplanes under the terms of this exemption;
 - b. Copies of each PIC's and SIC's pilot certificate, medical certificate, initial qualification, and training documentation to comply with Condition

Nos. 2 and 3 of this exemption;

- c. Records of maintenance performed and maintenance inspection records to comply with Condition No. 1 of this exemption; and
 - d. A listing of any incident, accident, or mechanical failure of the airframe, propellers, or engine(s) that occur during the time period for which this exemption is valid. That listing will include the date of the incident, accident, or failure; all information on the possible cause factors; and extent of injuries sustained, if any.
12. Before permitting a person to be carried on board its airplane for the purposes authorized under this exemption, the CAF will inform that person that its airplanes hold a limited airworthiness certificate or experimental airworthiness certificate, as appropriate; the significance of the airworthiness certificate as compared to a standard airworthiness certificate; and that the FAA has authorized this flight under a grant of exemption from the requirements of Sections 91.315, 91.319(a), 119.5(g), and 119.21(a). The explanation of the significance of a limited airworthiness certificate or experimental airworthiness certificate, as appropriate, compared to a standard airworthiness certificate must include at least the following information:
- a. The FAA has not established nor has it approved limited or experimental category airworthiness certificated aircraft manufacturing standards. In contrast, standard category airworthiness certificated aircraft are manufactured to FAA-approved standards, including standards addressing the design of the aircraft and life-limited parts.
 - b. Limited category airworthiness certificated aircraft are issued when the FAA finds the aircraft -
 - (i) Has been previously issued a limited category type certificate and the aircraft conforms to that type certificate; and
 - (ii) Is in a good state of preservation and repair and is in a safe operating condition.
 - c. An aircraft may be issued an experimental airworthiness certificate when the -
 - (i) Builder of the airplane submits a statement that sets forth the purpose for which the

aircraft is to be used;

- (ii) Builder of the airplane submits enough data to identify the aircraft;
 - (iii) Builder of the airplane submits information found necessary to safeguard the public; and
 - (iv) FAA finds the fabrication and assembling of the airplane complies with acceptable aeronautical standards and practices.
- d. Standard category airworthiness certificates are issued for an aircraft when the FAA finds the -
- (i) Aircraft has been built and maintained in accordance with that aircraft's type certification standards as established by the FAA; and
 - (ii) Aircraft's inspection and maintenance requirements are in compliance with the applicable FAR.
13. All flight operations must be conducted -
- a. At a minimum operating altitude of not less than 1,000 feet above ground level (AGL);
 - b. Between the hours of official sunrise and sunset, as established in the American Air Almanac, as converted to local time;
 - c. With a minimum flight visibility of not less than 5 statute miles;
 - d. With a minimum ceiling of not less than 2,000 feet AGL;
 - e. Within a 50-nautical-mile radius of the departure airport with landing only permitted at that departure airport; and
 - f. At an airport that has a fire station or firefighting services available.
14. No persons other than the assigned flight crewmembers may be permitted on the flight deck of the airplane during flight operations.
15. Except for essential crewmembers, all flight operations must carry no more than the maximum number of passengers permitted by the aircraft's weight and balance limitations and number of approved seats in the

aircraft.

16. Except for an emergency locator transmitter, the CAF's airplanes must have the equipment listed in Section 91.205(b), and that equipment must be in an operable condition during the flight.
17. If the airplane is to be operated over water and beyond the power-off gliding distance from shore, CAF's airplanes must have the equipment listed in Section 91.205(b)(11), and that equipment must be in an operable condition during the flight.
18. The CAF must hold and continue to hold a determination from the U.S. IRS that it is a Section 501(c)(3) nonprofit, tax-exempt, charitable organization under Sections 170(b)(1)(A)(vi) and 509(a)(1) of the Internal Revenue Code.

This exemption terminates on June 30, 2000, unless sooner superseded or rescinded.

Issued in Washington, DC, on July 24, 1998.

/s/ Richard O. Gordon
Acting Director, Flight Standards Service